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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,673	11/10/2003	Satoshi Mizutani	20050/0200473-US0	4666
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DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			REICHLE, KARIN M	
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Please find below and/or attached an Office communication concerning this application or proceeding.

6

Office Action Summary	Application No. 10/705,673	Applicant(s) MIZUTANI ET AL.	
	Examiner Karin M. Reichle	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2006.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
 4a) Of the above claim(s) 3-18,21-27 and 29 is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-2,19,20 and 28 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 14 April 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Election/Restrictions***

1. Claims 3-18, and 21-25, and now new claims 26-27 and 29, are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7-7-05. The layer configuration species of Figure 43, the pad and inner wrapping configuration species of Figure 6A, the outer wrapping configuration species of Figure 22, and the outer package configuration species of Figure 51 were elected. Claim 3 as now amended requires the, i.e. each, finger insertion portion of claim 2 either be one mini sheet straddling the broken line or two sheets attached to the respective sections (i.e. since claim 2 requires such portion on each section, claim 3 require two straddling or four sheets) which is not shown in the elected species of Figure 6A. Claim 25, see the original specification at page 51, lines 22 et seq, reads on the species of Figures 34-37 not the Figures of the elected species. New claim 26 requires a cutting line with perforations for cutting the wrapper which, as best understood, does not read on the tear line of the elected species of Figure 6A. New claim 27 also does not read on the elected species of Figure 6A because it requires the mini sheet to straddle the broken line. New claim 29, as best understood, appears to require another wrapping container, i.e. "a" wrapping container not "the" or "said", and thereby, does not read on the elected species.

Response to Amendment

2. The substitute specification filed 4-14-06 had not been entered because the marked up copy did not show the changes made to the originally filed application as preliminarily amended to arrive at the “clean copy”. See, e.g., page 24, line 3 thereof. Also the “clean” copy includes markings, i.e. is not a “clean copy. See, e.g., page 2, line 14. The amendments to the abstract still do not comply with 37 CFR 1.121 and thereby, were also not entered, i.e. the second paragraph of the abstract was not requested to be deleted or shown as struck through. Since the changes to the drawings were referenced in the not entered substitute amendment, the drawings are also not approved at this time. Therefore the following action is based on the original specification as preliminarily amended, the original abstract, the original Figures and the claims as filed 4-14-06

Specification

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

For Example:

Drawings

4a. The drawings were received on 4-14-06. These drawings are not approved by the Examiner, see the discussion in paragraph 2 supra. Therefore also see the following paragraph.

4b. The drawings are objected to because cross-sectional lines, e.g. A-A in Figure 1, should be denoted by Roman or Arabic numerals not letters. In Figure 28, the adhesive, see page 48, lines 15-16, should be denoted. In Figures 32(A)-(B) the Japanese labeling should be set forth in English. The Figures should be consistent with the description thereof throughout the specification, e.g. pages 29-34, e.g. the description of Figure 1 refers to Figs. 1A-D not 1(A)-(D) and Figure 44 is a sectional view but is not described as such. The Figures and descriptions thereof throughout the specification should be carefully reviewed and revised, as necessary, to provide a consistent description both pictorially and textually. Applicant is thanked in advance for his/her assistance in placing the specification in consistent form. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Description

5. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: the abstract.

6. The abstract of the disclosure is objected to because the abstract should be limited to a single paragraph. Also terminology which can be inferred, e.g. "The present invention relates to", should be avoided. Correction is required. See MPEP § 608.01(b).

7. The disclosure is objected to because of the following informalities: The specification is replete with informalities. For example: 1) On page 2, line 18, "Disclosure of the Invention" should be --Summary of the Invention--. 2) The Summary of the Invention section, i.e. a description of the claimed invention, and the invention of the claims is not commensurate in scope, see MPEP 608.01(d). 3) On page 48, lines 15-16, the adhesive shown in Figure 28 should be denoted. 4) As discussed supra, the Figures should be consistent with the description thereof throughout the specification, e.g. pages 29-34, e.g. the description of Figure 1 refers to Figs. 1A-D not 1(A)-(D), Figure 44 is a sectional view but is not described as such, on page 34, line 26, "Fig. 1" should be --Figures 1(A)-(D)--. 5) "Best Mode of Carrying Out the Invention" on page 34, line 19 should be --Detailed Description of the Invention--. 6) Is the broken line 15 only provided in the rear face of the wrapping container? If so, how is the front face of the wrapping container divided as shown in Figure 7? It should be noted that the front face of the wrapping container is believed to be as shown in Figures 1(D) or 3(B), i.e. how is tape 14 and sealed

Art Unit: 3761

longitudinal ends on the front end torn? 7) Also the preliminary amendment to page 33, line 20 could not be entered as it did not comply with 37 CFR 1.121, i.e. did not show all the added language underlined and deleted language struck thru. If Applicant desires entry of such changes an amendment in compliance with 37 CFR 1.121 should be submitted with the next response, if any. The specification should be carefully reviewed and revised, as necessary, to overcome all the informalities. Applicant is thanked in advance for the cooperation in placing the specification in proper form.

Appropriate correction is required.

Claim Objections

8. Claims 1-2, 19-20 and 28 are objected to because of the following informalities: In claim 1, line 4, "indicating" should be --defining--. Appropriate correction is required.

Claim Language Interpretation

9. The claim terminology is interpreted in light of the specific definitions in the paragraph bridging pages 25-26. Any other claim language not specifically defined has been interpreted in view of the usual and common meaning of such, i.e. the dictionary definition. Also, as best understood, the terminology "wrapping body" refers to the combination of the wrapping container and the pad, and the "wrapping container" is the finished product of "wrapping sheet" without the pad. Therefore it is also noted that claims 1-2, 19-20 and 28 also do not require an interlabial pad merely the capability of individually wrapping such and the

Art Unit: 3761

capability of inserting or removing such. The terminology “mini sheet piece” is interpreted to require a piece which is a sheet of a size smaller than some other structure of the container.

Claim Rejections - 35 USC § 102

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1-2, 19-20 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Fitz ‘911.

Claims 1-2: See Claim Language Interpretation section supra and Fitz ‘911 at the Figures, especially Figures 2a-2e and 4-7, and col. 1, lines 42-55, col. 2, line 21-col. 3, line 24, col. 4, line 42-col. 4, line 37, col. 6, line 28-col. 8, line 57, e.g. the container is H1-H5, the wrapping sheet is the container H1-H5 without the feminine hygiene article or tampon and the broken line of perforations is 50 or 51, see the first full paragraph of col. 3, which enables the wrapping sheet to be completely separate or divide into two separate sections, e.g. 10 and 20, each having a finger insertion portion, e.g. the space within each section which receives the finger, and the fingers are inserted into each finger insertion portion of each separate section to insert or remove the feminine hygiene article. The claims further require the container having the capability for individually wrapping an interlabial pad and the sections and finger insertion portions enabling insertion and removal of such a pad. However, it is the Examiner’s first position that the tampon as disclosed by Fitz ‘911 is an “interlabial” pad in that it is inserted between the labia and

Art Unit: 3761

thereby, the '911 reference explicitly teaches such capabilities. In any case, i.e. the Examiner's second position, '911 teaches all the claimed structure and the capability of using such structure similarly to that claimed for a feminine hygiene absorbent article of similar size and for use in a similar environment. Therefore, there is sufficient factual evidence for one to conclude that the capabilities of such claimed structure would also be inherent in the same structure of '911, see MPEP 2112.01.

Claims 19 and 28: See Figure 4, elements 70 and 71 and col. 4, line 52-col. 5, line 5, i.e. the container includes a laminate material having a fiber sheet 70, 71 on an inner face and a plastic film sheet on an outer face, and the sheets 70, 71 are smaller than the plastic film sheet layer and are divided by the line of perforations.

Claim 20: See, e.g., claim 25 of '911.

Response to Arguments

12. Applicant's remarks with regard to matters of form have been considered but are either deemed moot in that they have not been raised or deemed not persuasive for the reasons discussed supra. The remarks with regard to the prior art to Osborn have been considered but are deemed moot in that the claims have not been rejected again with respect to such prior art.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any new grounds of rejection were necessitated by the amendments to claims 1 and 3, and the addition of claims 26-29.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR
July 4, 2006